

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARQUEZ HALL,

Plaintiff,

v.

Case No. 2:22-cv-11528

CORRECTIONS OFFICER KEETON,

District Judge
Gershwin A. Drain

Defendant.

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**ORDER ACCEPTING AND ADOPTING REPORT AND
RECOMMENDATION TO DISMISS IMPROPER CROSSCLAIM [#22]**

Plaintiff Marquez Hall (“Plaintiff”), an inmate in the custody of the Michigan Department of Corrections (“MDOC”), initiated this action against Corrections Officer Keeton (in his individual and official capacities) and the MDOC on June 29, 2022. ECF No. 1. Plaintiff asserts an Eighth Amendment claim under 42 U.S.C. § 1983, alleging that his right to be free from cruel and unusual punishment was violated when he “was maliciously and sadistically maced by Officer Keeton.” *Id.* at PageID.5. The Court partially dismissed Plaintiff’s claim on January 30, 2023, finding that his official capacity claim and his claim against the MDOC could not survive sovereign immunity and failed to state a justiciable claim. ECF No. 7. Remaining is Plaintiff’s individual claim against Officer Keeton (“Defendant”).

Defendant filed an Answer on May 17, 2023. ECF No. 14. In his Answer, Keeton asserted multiple affirmative defenses and ostensibly initiated a crossclaim against the MDOC. *Id.* at PageID.65–68. The Court referred the matter to Magistrate Judge Curtis Ivy, Jr. shortly thereafter. ECF No. 15. Judge Ivy ordered Defendant to show cause as to why his crossclaim should not be dismissed. ECF No. 17. The Order noted that a crossclaim may only be asserted against a “coparty” at the time—not a former party to an action. ECF No. 17, PageID.81. Defendant did not file a response to this Order.

Judge Ivy issued a Report and Recommendation on October 4, 2023, recommending that Defendant’s crossclaim “be dismissed as improperly filed against an entity that is no longer a party to this action.” ECF No. 22, PageID.99. Defendant did not file an objection, and the time to do so has expired. 28 U.S.C. § 636(b)(1)(C).

Upon review of the record and the Report and Recommendation, the Court finds that Judge Ivy reached the correct conclusion. Therefore, the Court **ACCEPTS AND ADOPTS** Judge Ivy’s October 4, 2023 Report and Recommendation (ECF No. 22) as this Court’s findings of fact and conclusions of law. Defendant’s crossclaim against the MDOC is hereby **DISMISSED**.

IT IS SO ORDERED.

Dated: December 6, 2023

/s/ Gershwin A. Drain
GERSHWIN A. DRAIN
U.S. DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
December 6, 2023, by electronic and/or ordinary mail.

/s/ Teresa McGovern
Case Manager